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sent it cannot be done. Even if the vendee be insolvent there is authority for holding that in some situations he can still save the consignor from loss. "If the vendee refuses to receive the goods upon arrival, because of his insolvency, he is desirous of protecting the seller from loss, the right of stoppage in transitu will continue." *MECHEM, SALES*, p. 1329, § 1591; *Jenks v. Fulmer*, 160 Pa. St. 527, 28 Atl. 841. And if a bankrupt countermand the order, even if custodian in bankruptcy accept the goods, the vendor's right of stoppage in transitu has not ended. *Tufts v. Sylvester*, 79 Me. 213, 9 Atl. 357. But where, as in the principal case, the goods had been accepted and received by the vendee, constructively, by delivery to his agent, then the goods have become the absolute property of the vendee and the bankrupt vendee can no more transfer the property to his vendor by redelivery of the shipping receipts than he could dispose of any other property. To permit this would be to allow a preference to the vendor or consignor which in reason could not be supported. All of the vendee's property equally, must belong to the trustee or receiver in bankruptcy to be held for the benefit of all the creditors.

STATUTE OF FRAUDS—ORIGINAL OR COLLATERAL PROMISE.—The plaintiff delivered one hundred and seventy-five head of cattle to one Mitchell in consideration of the oral promise of the defendants' agent to pay for them. To this action upon defendants' promise the principal defenses were: (1) Statute of Frauds; (2) The defendants' agent could not bind them without being directly authorized. *Held*, that the plaintiff could recover. *Bennett et al. v. Thuet et al.* (1906), — Minn. —, 108 N. W. Rep. 1.

The chief question in this case is whether there is a promise to pay the debt of another and therefore within the statute. This opens a most perplexing and difficult branch of the law. The cases in this country are not only in hopeless conflict, but also those in England. Among this confused mass there are some principles that are generally conceded. A promise to a creditor to pay the debt of his debtor in consideration of his discharge followed by an absolute discharge of the debtor is generally held not to be within the statute. *Whittemore v. Wentworth*, 76 Me. 20. If the promisor seeks to further his own interests and not to guarantee the debt of another the promise need not be in writing. *Kelly v. Schupp*, 60 Wis. 76, 18 N. W. Rep. 725. If the promise is made directly to the debtor it is not within the statute. *Pratt v. Bates*, 40 Mich. 37. Contracts of indemnity are generally held not to be within the statute. *Marcy v. Crawford*, 16 Conn. 548. If one promises to pay for the future services to be performed for another it has been held that this is an original undertaking. *Lookout Mountain R. R. Co. v. Houston et al.*, 85 Tenn. 224, 2 S. W. Rep. 36. The same principle has been applied to the sale of goods and delivery thereunder, even though the charge therefor has been entered upon the books against another. *Hartley Bros. v. Varner et al.*, 88 Ill. 561. In the principal case the defendants contended that their promise was not an original one, but that it was collateral and therefore should be in writing. The court, in accordance with the weight of authority, held the contrary although one judge dissented.